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ATTORNEYS FOR APPELLANTS:

L. ROSS ROWLAND

Muncie, Indiana

RONALD E. MCSHURLEY

Muncie, Indiana

ATTORNEY FOR APPELLEE:

TIMOTHY R. HOLLEMS

Indiana Department of Child Services
Muncie, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

WENDY HOSKINS and CHARLES ROBERTS,)

Appellants,)

vs.)

DELAWARE COUNTY DIVISION)

OF FAMILY & CHILDREN,)

Appellee.)

No. 18A05-0610-JV-611

APPEAL FROM THE DELAWARE CIRCUIT COURT

The Honorable Richard A. Dailey, Judge

Cause No. 18C02-0602-JT-08

May 29, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Wendy Hoskins (“Mother”) and Charles Roberts (“Father”) appeal the trial court’s termination of their parental rights with respect to M.H., a minor child. They each raise a single issue for our review, which we restate as whether the Delaware County Division of Family and Children (“DFC”) presented sufficient evidence to support the termination of their respective parental rights.

We affirm.

FACTS AND PROCEDURAL HISTORY

On May 25, 2004, the DFC filed a Child in Need of Services (“CHINS”) petition alleging that Mother, who had physical custody of M.H., was leaving M.H. in the presence of drug users, was using drugs, was not giving M.H. her special formula, and had allowed M.H. to develop “a terrible bleeding diaper rash.” Ex. Vol. at 5. The court adjudicated M.H. to be a CHINS and placed her in foster care, and Mother and Father were ordered to participate in a number of services. After continued noncompliance with the majority of those services by both Mother and Father, the DFC filed a petition seeking the involuntary termination of their parental rights.

On July 17, 2006, the trial court held a fact-finding hearing on the DFC’s petition. And October 16, the court entered its order terminating the parental rights of Mother and Father. That order thoroughly describes the facts and the evidence, stating:

[T]he Court now finds as follows:

1. That Charles Roberts is the natural father and Wendy Hoskins is the natural mother of [M.H.], born February 10, 2004.
2. That the child has been removed from the care of the parents and has

been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months.

3. That Dr. Thomas Wojciechowski testified that he is a Pediatrician and has been the primary treating physician of [M.H.] since May, 2004.
4. That Dr. Wojciechowski testified that [M.H.] has a number of special medical needs associated with suffering from Spina Bifida.
5. That due primarily to the Spina Bifida, Dr. Wojciechowski testified that [M.H.] requires daily catheterization since she has no bladder control, has recently been fitted with leg braces and is just beginning to walk, has been seen by Dr. Wojciechowski [sic] twenty-five (25) times since care has been initiated, and will likely need a shunt implanted to relieve fluid pressure on [M.H.'s] brain, among other ailments.
6. That Dr. Wojciechowski testified that [M.H.] requires specialized care on a daily basis to live and that these needs will likely continue for the foreseeable future.
7. That Dr. Wojciechowski testified that [M.H.'s] foster mother, Norma Black, attends all of the appointments with [M.H.], is trained to provide some of the specialized care for [M.H.], and has been diligent in providing the type of care necessary for [M.H.] to remain alive.
8. That Dr. Wojciechowski testified that he has had very limited contact with [Mother] and no contact with [Father].
9. That Dr. Wojciechowski testified that he has concerns about the care in which the natural parents could provide [M.H.], particularly given her special medical needs, the special training needed to provide for those needs, and the seeming lack of interest to be involved in providing those needs.
10. That Marci Hayes, a physical therapist employed by the First Steps program, testified that she has worked with [M.H.] to address her special physical needs since January, 2006.
11. That Marci Hayes testified that since she has been working with [M.H.], [Mother] has only attended two or three sessions, despite the

facts that she was encouraged to attend and that sessions were held at least every week since January, 2006.

12. That Marci Hayes testified that [Father] has never attended a physical therapy session with [M.H.]
13. That Marci Hayes testified that the foster parent, Norma Black, is the individual who works the closest with [M.H.] in addressing her special physical needs.
14. That Marci Hayes testified that Norma Black's efforts were primarily responsible for the physical improvements made by [M.H.]
15. That Renee Harbart, Case Manager for Meridian Services, testified that she was the assigned case manager for [Mother] and that she was responsible for teaching and providing supportive counseling, parenting skills, budget skills, and daily living skills.
16. That Renee Harbart testified that while [Mother] successfully completed drug treatment and appears to have remained free from substance abuse since 2005, that [Mother] has not followed through on additional services.
17. That Renee Harbart testified that [Mother] never completed her parenting classes and only attended approximately fifty (50) percent of the scheduled classes.
18. That Renee Harbart testified that [Mother] lacked consistency, stability and structure in her life and has failed to work with the case manager to address her needs concerning housing, budgeting and parenting.
19. That Renee Harbart testified that [Mother] currently is living with her mother and that [Mother] reports to Renee Harbart that she has signed up for the National Guard, which will severely limit the time or ability of [Mother] to address her continued needs.
20. That Richard Baker, Addictions Counselor for Meridian Services, testified that he was the last assigned addictions counselor assigned [sic] to [Mother] and conducted an evaluation of [Father].
21. That Richard Baker testified that [Mother] completed drug treatment in 2005, but missed at least three (3) of her last five (5) scheduled follow[-]up appointments.

22. That Richard Baker testified that prior to her successful completion of drug treatment, that [Mother] was unsuccessful in treatment in August, 2004, in October, 2004, and in December, 2004, failing to keep counseling appointments and testing positive for illegal substances during these periods.
23. That Bruce Rector, Addictions Counselor for Meridian Services, testified that [Father] was evaluated for drug treatment in September, 2005 and was to start Intensive Outpatient Program in October, 2005, but did not complete that program.
24. That Bruce Rector testified that [Father] met with him in December 2005, expressing a desire to get back into drug treatment services; scheduled with Richard Baker to be admitted back into treatment on December 27, 2005, but never returned to Meridian to begin treatment for drug addiction.
25. That Heather Pierce, Probation and Parole Officer for the Department of Corrections [sic], testified that she was the parole officer for [Father].
26. That Heather Pierce testified that [Father] has been incarcerated on several occasions due to his failure [to] abide by the rules of parole; that [Father] has a lengthy criminal history involving substance abuse, physical abuse and domestic violence; that [Father] continues to display unresolved anger management issues which have yet to be successfully addressed.
27. That Heather Pierce testified that she knows [Mother], due to her personal involvement with other probation and parole clients on her caseload.
28. That Heather Pierce testified that [Mother] was physically with an individual when that individual was arrested and charged with robbery and murder and that [Mother] was with another individual when that person was arrested for dealing cocaine.
29. That Sherry Hamilton, First Steps Developmental Therapist for [M.H.], testified that she has been providing therapy to [M.H.] for approximately one and a half (1.5) years.
30. That during the time Sherry Hamilton has been providing therapy to [M.H.], that [Mother] has shown up to exactly one appointment.

31. That Sherry Hamilton testified that Norma Black, [M.H.'s] foster parent, has been the individual most involved in [M.H.'s] therapy.
32. That Bobbi Grubb, Homemaker employed by the [DFS], testified that she was assigned to supervise visits between the parents and the child.
33. That Bobbi Grubb testified that [M.H.] was extremely agitated when she was separated from Norma Black, the foster parent, and that due to this agitation the foster parent had to accompany [Father] during the visit.
34. That Bobbi Grubb testified that [Mother] missed ten (10) weekly scheduled visits with her daughter between June, 2004 and December, 2004; that visits were then suspended; that after visits were reinstated that [Mother] missed approximately twenty (20) additional visits with [M.H.]
35. That Bobbi Grubb testified that [Father] has not visited the child on a regular basis and has failed to establish any sort of rapport with [M.H.]
36. That Norma Black, foster parent to [M.H.], testified that [M.H.] continues to have special medical needs, requiring her to travel to Indianapolis to attend medical appointments.
37. That Norma Black testified that she informed [Mother] of medical appoints [sic] for [M.H.], but that [Mother] did not attend those appointments.
38. That Norma Black testified that [M.H.] requires physical and developmental therapy on a weekly basis, [and] that the parents have been made aware of these appointments but do not attend these appointments.
39. That [DFC] Family Case Manager Krista Garrett testified she has been [M.H.'s] case manager from June 9, 2004 to the present time.
40. That Krista Garrett testified that [Mother] successfully completed drug treatment, but has failed to positively address her other needs, which have precluded reunification between [M.H.] and her mother.
41. That Krista Garrett testified that visitation between [M.H.] and

[Mother] was suspended because of the lack of progress being made and the sporadic attendance of [Mother] at scheduled visitation times.

42. That Krista Garrett testified that [Mother] continues to be unemployed[,] lives with her mother with whom she has a volatile relationship, and has failed to maintain a safe and stable living environment for her child.
43. That Krista Garrett testified that [Mother] failed to complete parenting skills training.
44. That Krista Garrett testified that [Mother] informs her that she has enlisted in the National Guard and is planning to be deployed on active duty[,] despite the negative repercussions this arrangement would have with her ability to parent [M.H.]
45. That Krista Garrett testified that [Mother's] relationship with [Father] is fraught with violence and volatility.
46. That Krista Garrett testified that [Father] never completed court ordered drug treatment, never completed anger management, continued to test positive for use of illegal substances, and had his parole for a criminal conviction revoked due to continued violations.
47. That the Court Appointed Special Advocate, Pat Hughes, testified that she supports the termination of the parental rights of [Father] and [Mother], due to the fact that neither parent has demonstrated the ability to follow through or adequately parent the child on a continued basis.
48. That based on the foregoing, there is a reasonable probability that the conditions that resulted in the child's removal will not be remedied.
49. That based on the foregoing, there is a reasonable probability that the continuation of the parent/child [sic] relationship herein poses a threat to the well being of the child.
50. Termination of the parent/child [sic] relationship is in the best interest of the child.
51. The [DFC] has a satisfactory plan for the care and treatment of the child, which includes adoptive placement.

52. The [DFC] has proven their petition here by clear and convincing evidence.

Mother's Brief at 30-36. The court then terminated the parental rights of Mother and Father. This appeal ensued.

DISCUSSION AND DECISION

Mother and Father contend that the evidence is insufficient to support the involuntary termination of their parental rights under Indiana Code Section 31-35-2-4(b)(2). Initially, we note that the purpose of terminating parental rights is not to punish parents, but to protect the children. Weldishofer v. Dearborn County Div. of Family & Children (In re J.W.), 779 N.E.2d 954, 959 (Ind. Ct. App. 2002), trans. denied.

Although parental rights are of a constitutional dimension, the law allows for the termination of those rights when parents are unable or unwilling to meet their responsibilities as parents. This includes situations not only where the child is in immediate danger of losing his life, but also where the child's emotional and physical development are threatened.

Id.

In reviewing a decision to terminate a parent-child relationship, this court will not set aside the judgment unless it is clearly erroneous. Everhart v. Scott County Office of Family & Children, 779 N.E.2d 1225, 1232 (Ind. Ct. App. 2002), trans. denied. Findings of fact are clearly erroneous when the record lacks any evidence or reasonable inferences to support them. Id. When reviewing the sufficiency of the evidence, this court neither reweighs the evidence nor judges the credibility of the witnesses. Id.

To support a petition to terminate parental rights, the DFC must show, among other things, that there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for

placement outside the home of the parents will not be remedied; or

- (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child.

Ind. Code § 31-35-2-4(b)(2)(B). The DFC also must show that termination is in the best interests of the child and that there exists a satisfactory plan for the care and treatment of the child. Ind. Code § 31-35-2-4(b)(2)(C), (D). These factors must be established by clear and convincing evidence. Ind. Code § 31-34-12-2.

Initially, with regard to subsection (B) of the statute, we note that the DFC need only present clear and convincing evidence that either the conditions resulting in removal will not be remedied or that the continuation of the parent-child relationships poses a threat to the children's well-being. For example, if we hold that the evidence is sufficient to support the trial court's conclusion that the conditions resulting in the child's removal will not be remedied, we need not address whether continuation of the parent-child relationships poses a threat to the well-being of the child.

In interpreting Indiana Code Section 31-35-2-4, this court has held that the trial court should judge a parent's fitness to care for his or her child at the time of the termination hearing, taking into consideration evidence of changed conditions. J.K.C. v. Fountain County Dep't of Pub. Welfare, 470 N.E.2d 88, 92 (Ind. Ct. App. 1984). However, recognizing the permanent effect of termination, the trial court must also evaluate a parent's habitual patterns of conduct to determine whether there is a substantial probability of future neglect or deprivation of the child. Id. And the trial court need not wait until the child is irreversibly influenced by a deficient lifestyle such that the child's physical, mental, and social growth is permanently impaired before

terminating the parent-child relationship. Id. at 93.

A pattern of unwillingness to deal with parenting problems and to cooperate with those providing social services, in conjunction with unchanged conditions, will support a finding that there exists no reasonable probability that the conditions will change. Matter of D.B., 561 N.E.2d 844, 848 (Ind. Ct. App. 1990). Where there are only temporary improvements and the pattern of conduct shows no overall progress, the court might reasonably find that, under the circumstances, the problematic situation will not improve. Matter of D.L.W., 485 N.E.2d 139, 143 (Ind. Ct. App. 1985). When the evidence shows that the child's emotional and physical development is threatened, termination of the parent-child relationship is appropriate. Egley v. Blackford County Dep't of Public Welfare, 592 N.E.2d 1232, 1234 (Ind. 1992).

Here, Mother maintains that her "uncontroverted accomplishments should have been given more weight than the trial court acknowledged . . . [and the fact] that [she] did not attend all health care provider appointments . . . should not be the determining factor." Mother's Brief at 24-25. Mother also attacks the character of DFC Case Manager Krista Garrett. In essence, then, Mother argues for this court to reweigh the evidence, which we will not do. See Everhart, 779 N.E.2d at 1232.

Regarding Mother, the trial court's order is not clearly erroneous. Dr. Wojciechowski, M.H.'s treating physician, testified that he had very limited contact with Mother. He also expressed concerns for M.H.'s care if left with Mother, given her repeated lack of interest in her daughter's health. Marci Hayes, M.H.'s treating physician, likewise testified to having sporadic contact with Mother. Renee Harbart,

Case Manager for Meridian Services, testified that Mother “lacked consistency, stability and structure in her life and has failed to work with the case manager to address her needs concerning housing, budgeting and parenting.” Mother’s Brief at 32. Heather Pierce, Father’s probation officer, testified that she recognized Mother from Mother’s involvement with other convicted criminals. Bobbi Grubb, a homemaker employed by the DFC, testified that M.H. gets agitated when she is separated from her foster parent, and that Mother frequently missed scheduled visits with M.H. Norma Black, M.H.’s foster parent, testified that Mother did not attend M.H.’s medical appointments. And Krista Garrett, the DFC Case Manager, testified that Mother and Father’s relationship is filled with violence and volatility.

Similarly, Father argues that the trial court “erred in not taking into consideration the fact that [he] voluntarily completed drug and parenting classes, that he was in no way involved in the child’s removal from the mother’s home, and that there was no evidence that his actions has [sic] any adverse effect on his child.” Father’s Brief at 14. Father also maintains that the court “failed to consider that from the very beginning of this case the [DFC] was attempting to reunify the child with the natural mother, and that most of the services were directed towards the mother.” Id. at 13. But, like Mother, Father essentially asks this court to reweigh the evidence, which, again, we will not do. See Everhart, 779 N.E.2d at 1232.

As with Mother, the trial court’s order is not clearly erroneous with respect to Father. Dr. Wojciechowski testified that he had no contact with Father. Dr. Wojciechowski also expressed concerns for M.H.’s care if left with Father, given

Father's repeated lack of interest in his daughter's health. Marci Hayes also testified to having no contact with Father. Bruce Rector, Addictions Counselor for Meridian Services, testified that Father failed to complete a drug treatment program. Heather Pierce, Father's probation officer, testified as to Father's failure to abide by the conditions of his probation. Bobbi Grubb testified that Father frequently misses scheduled visits with M.H. And, again, Krista Garrett testified that Mother and Father's relationship is filled with violence and volatility.

Parental responsibility is heightened under circumstances where, as here, a child has special needs. But the facts here clearly show that Mother and Father have repeatedly ignored the needs of their child, if not ignored their child altogether, and consistently failed to take the steps necessary to be reunited with M.H. As such, the facts support the trial court's conclusions that the continuation of the parent-child relationships poses a threat to M.H.'s well being; that termination of those relationships is in M.H.'s best interests; and that the DFC has established a satisfactory plan for the care and treatment of M.H., namely, adoptive placement. Further, it is clear that the parents' patterns of conduct demonstrate that a continuation of their relationships with M.H. creates a substantial probability of future neglect or deprivation of the child. See J.K.C., 470 N.E.2d at 92. Thus, we cannot say that the trial court erred in ordering the involuntary termination of Mother's and Father's parental rights with respect to M.H.

Affirmed.

RILEY, J., and BARNES, J., concur.